

Tsyngauz

& Associates, P.C.

October 19, 2021

114 Mulberry Street
Ground Floor
New York, NY 10013

(212) 337 - 9770 telephone

(212) 337 - 3375 facsimile

VIA PACER

Honorable Eric N. Vitaliano
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Yevgeny Tsyngauz, Esq.
Mikhail Litt, Esq.
Ryan Banich, Esq.
Steven N. Gordon, Esq.
Anna Buzhor, Esq.

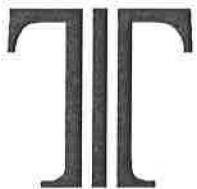
Re: Jennifer Hough v. Onika Tanya Maraj AKA ("Nicki Minaj") and Kenneth Petty AKA ("Zoo"); Case No. 1:21-cv-04568-ENV-JRC

Dear Judge Vitaliano:

We represent Plaintiff Jennifer Hough in the above-referenced matter. We write this letter regarding the Clerk's denial of our request for a Certificate of Default Judgment against Defendant Onika Tanya Maraj on October 19, 2021. For reasons stated herein, and our previously submitted Request for Certificate of Default Judgment (Dkt. No. 15), we respectfully request that the Clerk's denial be withdrawn and request granted. If this request requires a formal motion, please accept this as our pre-motion letter.

As you know, on August 13, 2021, we commenced an action on our client's behalf against the Defendants, Ms. Maraj, and her husband, Kenneth Petty, in the United States District Court, Eastern District of New York styled *Jennifer Hough v. Onika Tanya Maraj AKA ("Nicki Minaj"), an individual, and Kenneth Petty AKA ("Zoo"), an individual*; Case No. 1:21-cv-04568-ENV-JRC (the "Action"). The Action arises out of Mr. Petty's brutal forcible rape of our client on September 16, 1994, and his and Ms. Maraj's recent attempts to intimidate and harass our client to get her to recant her 1994 rape claim. Our Amended Complaint, filed on September 2, 2021, and personally served upon Mr. Petty at Defendants' residence in Calabasas, California, on September 15, 2021, alleges the enormous and permanent damage their actions have caused Ms. Hough. However, as you may expect, words can only tenuously express the damages she has and continues to experience.

Even after commencing the Action on August 13, 2021, Ms. Maraj continued to shamelessly hurl insults to denigrate Ms. Hough. Yet, while Ms. Maraj had time to make such disparaging statements on her Twitter account and enflame her mentally deranged fans into sending death threats to Ms. Hough and her counsel, Mr. Blackburn, she ignored responding to the Amended Complaint. Indeed, on October 6, 2021, the final day on which Ms. Maraj could respond, she willfully failed to do so. Accordingly, on October 11, 2021, after we gave Ms.



Maraj approximately five extra days to file a response, we filed a request with the Clerk's Office for a Certificate of Default.

Three days later, and nine days after her response was due, Ms. Maraj's counsel, Judd Burstein, entered a Notice of Appearance on her behalf. Even if it was timely, a Notice of Appearance does not constitute a responsive pleading, and Ms. Hough is entitled to a default judgment against Ms. Maraj. *See the United States v. Arena*, No. CV02-5216(JS)(WDW), 2007 WL 2907480, at *2 (E.D.N.Y. January 29, 2007) (holding that plaintiff is entitled to entry of a default judgment because defendants' notice of appearance did not constitute a responsive pleading); see also Federal Rules of Civil Procedure, Rule 12(a)(1)(A) (listing the types of responsive pleadings, in which a Notice of Appearance is clearly absent).

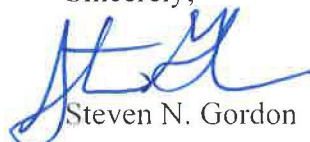
Moreover, Federal Rules of Civil Procedure, Rule 55(a) ("FRCP 55(a)"), provides that "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default." (emphasis added). On October 11, 2021, Ms. Hough requested that the Clerk's Office issue a Certificate of Default Judgment. Per Your Honor's Rules, Ms. Hough could not seek entry of Default Judgment until she received such Certificate. If the Clerk's Office had promptly issued the Certificate, Ms. Hough would have sought entry of default from Judge Vitaliano against Ms. Maraj.

Upon appearing at the Clerks Office today, Ms. Hough's counsel, Mr. Blackburn, was advised that the delay in issuing the Certificate was caused by understaffing and limited hours in the Clerks office. Although we are sympathetic to the current staffing needs of the Clerks office, this delay and the reason given is unprecedented and prejudicial to our client.

We respectfully request that the Clerk issue the Certificate of Default Judgment against Ms. Maraj for failure to timely respond to the Amended Complaint, and re-assert our request for such. (See Dkt. No. 15). As you know, Ms. Maraj will not be without recourse, as she can move to vacate the Default Judgment if and when Your Honor issues it. Despite Ms. Maraj's celebrity status, she must be held to the same rules as everyone else.

If you have any questions or concerns, please do hesitate to contact the undersigned.

Sincerely,



Steven N. Gordon